

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :
:
: CRIMINAL NO. 3:15-72
v. :
: (JUDGE MANNION)
MICHAEL COSTELLO, :
:
Defendant :
:

ORDER

Based on the court's memorandum issued this same day, **IT IS**
HEREBY ORDERED THAT:

- (1) The defendant Michael Costello's letter Motion for Compassionate Release or for Reduction of Sentence and for Immediate Release to Home Confinement, (**Doc. 93**), is construed as an emergency petition for writ of habeas corpus pursuant to 28 U.S.C. §2241.
- (2) The clerk of court is directed to docket defendant's Doc. 93 motion as a §2241 habeas petition and to assign it a separate civil number. Due to the immediate request for relief sought, the clerk of court is directed forgo the thirty-day administrative order requiring defendant to pay the filing fee for a habeas petition, as that can be addressed in the proper jurisdictional court.

(3) The clerk of court is then directed to forthwith transfer defendant's habeas petition to the U.S. District Court for the District of Minnesota.

(4) To the extent defendant's Doc. 93 motion can be construed a motion for compassionate release, it is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction since he has failed to comply with §3582(c)(1)(A)'s exhaustion requirement.

(5) To the extent defendant's Doc. 93 motion can be alternatively construed as a motion for immediate release to home confinement under the CARES Act, it is **DISMISSED** since the court lacks authority to grant such relief under the Act.

s/ Malachy E. Mannion

MALACHY E. MANNION

United States District Judge

DATE: May 11, 2020

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